

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Charles Craft,

Case No. 22-CV-2032 (KMM/JFD)

Petitioner,

v.

REPORT AND RECOMMENDATION

Warden Eischen, FPC, Duluth,

Respondent.

Petitioner Charles Craft filed two Petitions that have been assigned to the undersigned Magistrate Judge—the present one and one other—pursuant to 28 U.S.C. § 2241, both challenging the Bureau of Prisons’ decision not to transfer him to home confinement to serve the remainder of his sentence.¹ In an order dated September 21, 2022, this Court ordered Petitioner Charles Craft to show cause why this matter should not be dismissed as duplicative of his other “home confinement” petition, *Craft v. Birkholz*, No. 21-CV-1917 (MJD/JFD). (Dkt. No. 5.)² Craft was given until October 11, 2022, to respond, failing which it would be recommended that this action be dismissed without prejudice as duplicative of that case. *See* Fed. R. Civ. P. 41(b).

¹ Craft has a third Section 2241 petition pending, which challenges the BOP’s calculation of his First Step Act credits. *See Craft v. Eischen*, No. 22-CV-1897 (KMM/TNL). That third petition is not implicated in this Report and Recommendation.

² The Court issued a Report and Recommendation in No. 21-CV-1917 (MJD/JFD) on Thursday, October 20, 2022.

That deadline has now passed, and Craft has not complied with the Court's show-cause order. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) as duplicative of *Craft v. Birkholz*, No. 21-CV-1917 (MJD/JFD). *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order."); *Ashley v. Payne*, No. 4:20-CV-00203-SWW-JTR, 2020 WL 2831766 (E.D. Ark. May 19, 2020) (dismissing habeas petition with prejudice as duplicative of pending litigation) (discussing *Missouri ex rel. Nixon v. Prudential Health Care Plan, Inc.*, 259 F.3d 949, 953-54 (8th Cir. 2001) ("Plaintiffs may not pursue multiple federal suits against the same party involving the same controversy at the same time.")).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** as duplicative of *Craft v. Birkholz*, 21-CV-01917 (MJD/JFD), or, alternatively, under Fed. R. Civ. P. 41(b) for failure to comply with a court order.

Dated: October 25, 2022

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).